

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA**

MISSOULA DIVISION

RYAN DEAN GABRIEL,) Civil No. CV-24-118-M-JTJ

Plaintiff,)

vs.) GABRIEL'S AFFIDAVIT AND

DORINDA SUE GRAY, et al.) MOTION FOR NEW TRIAL

Defendants.

RYAN DEAN GABRIEL deposes and says:

1. To the best of my knowledge, all facts alleged herein and exhibits supporting this instant affidavit are true and accurate.

2. I herein provide notice to this Court of an indefinite stay – ordered by the Oregon Court of Appeals on December 12, 2024 – of the foreign court judgment that Defendants DORINDA SUE GRAY, INSURED TITLES, LLC / DBA INSURED TITLES (“M/r/s. Gray”), TITLE INSURANCE CORPORATION / DBA INSURED TITLES (“Insured Titles”), TAYLOR KAI GROENKE (“M/r/s. Groenke”) and FREDERICK J. “FRITZ” GROENKE /DBA MONTANA REAL ESTATE GROUP (“Mr. Groenke”) have relied upon to seek dismissal of the instant case. (Doc 7, Doc 15, Doc 26). (*See Exhibit 52 and Exhibit 55*, attached here.)

3. This foreign court judgment that has been subject to an indefinite stay since July 2, 2024, and perfected on October 18, 2024 – now affirmed by the higher Oregon Court (of Appeals) – was also heavily relied upon to support the Defendants' various motions granted in the Order dated December 31, 2024, entered against Plaintiff by the Montana Eleventh Judicial District Court, Honorable Robert B. Allison, Cause Number DV-15-2024-0001197: a) to Declare Plaintiff a Vexatious Litigant; b) to Dismiss; and c) for Prefiling Order and Fees. (Doc 31).

PLAINTIFF'S BRIEF - INTRODUCTION

4. As a result of the Oregon Court of Appeals latest rulings, Defendant Mr. Groenke (through Montana Regional MLS, LLC) has withdrawn the unlawful listing of Mr. Gabriel's permanent residence at 2000 Blacktail Rd. in Lakeside, MT, and Defendant M/r/s. Groenke has also withdrawn, in full retreat, as legal counsel for the Plaintiff in Flathead County District Court Cause No. DR-24-394 (Hon. Danni Coffman presiding). (*See Exhibit 61*, attached here.)

5. Mr. Gabriel has filed prior notices into this instant case that the Court of Appeals of the State of Oregon has issued an order granting a temporary stay of the Amended General Judgment in Multnomah County Circuit Court No. 22DR04942 (Court of Appeals No. A184337). The Defendants were relying upon this stayed judgment to justify their ongoing unlawful actions to interfere in Plaintiff

1 Mr. Gabriel's affairs, contracts and permanent residence in the instant matter. (Doc
2

3 **1.) (See Exhibit 52 and Exhibit 55, attached here.)**

4 6. The appellate court has now issued two very clear '*Orders*', one signed
5 on November 26, 2024, by Chief Judge Hon. Erin C. Lagesen, and another on
6 Thursday, December 12, 2024. In this more recent '*Order*', the Oregon Court of
7 Appeals further clarified the scope of the Stay previously ordered on Mr. Gabriel's
8 behalf by Chief Judge Hon. Erin C. Lagesen:

9 "Under ORS 19.335(2), to the extent that the judgment requires
10 appellant to relinquish possession of the real property, his filing of the
11 supersedeas undertaking "acts to stay" that requirement. Thus, having
12 complied with the provisions of ORS 19.335(2), including depositing
13 the agreed security with the court, appellant is entitled to maintain
14 possession of the property at issue pending resolution of this appeal.
15 On review of the trial court's order under ORS 19.360, the court rules
16 that, to the extent that, under the judgment on appeal, appellant is
17 required to transfer or deliver possession of the real property at issue,
that portion of the judgment is stayed pending completion of the
appeal."

18 (See **Exhibit 55**, attached here.)
19

20 7. The previous appellate court '*Order*', signed on November 26, 2024,
21 by Chief Judge Hon. Erin C. Lagesen, reads:

22 "In view of German Sav. Soc'y v. Kern, 42 Or 532, 70 P 709
23 (1902), appellant's [Mr. Gabriel's] request for a temporary stay is
24 granted pending resolution of this motion. As a result of this temporary
25 stay, appellant is entitled to remain in possession of the property at issue
26 pending further ruling by this court. See *Kern*, 42 Or at 535-36 ("[I]f
the appellant is in possession at the time of the filing of the undertaking,

1 he is entitled to remain so until the matter is fully adjudicated in the
2 appellate court.”).

3 Mr. Gabriel herein attaches a copy of the ‘Order’ in the Oregon appellate
4 court. (*See Exhibit 52*, attached here).

5 8. The indefinite Stay ordered by the Oregon Court of Appeals is in
6 support of the prior-referenced supersedeas undertaking and cash posting of
7 \$51,816 discussed at length in this instant (Flathead County) Court’s hearing, dated
8 October 29, 2024, in a related case (Cause No. DR-24-394), Hon. Judge Danni
9 Coffman presiding. On October 18, 2024, an agreed upon cash posting (\$51,816)
10 and corresponding supersedeas undertaking was filed in the Oregon domestic
11 relations trial court, effecting a Stay per the stipulated Order, which reads:
12
13

14 “The court heard arguments and accepted the parties’ agreement
15 that the reasonable ***value and use and occupation of their Montana***
16 ***home*** came to \$4,318 monthly and that, because respondent [Mr.
17 Gabriel] is a half owner, the posting that will effect a stay is 24 times
18 half of that amount (i.e., a posting of \$51,816).” (Emphasis added.)
19
20

21 Per the November 26, 2024, and December 12, 2024, rulings by the Oregon
22 Court of Appeals, combined with the signed stipulated Multnomah County trial
23 court ‘*Order Re: Objection to Undertaking*’ dated August 14, 2024, this therefore
24 entitles Plaintiff Mr. Gabriel to “use and occupation” of the property located at 2000
25 Blacktail Rd. in Lakeside, MT 59922 for a period of 24 months, starting on October
26 18, 2024. (*See Exhibit 45*, attached here). This 24-month period was agreed to by
27
28

1 all parties in the Oregon trial Court in anticipation of a 2-year process to conclude
 2 the appellate process in the State of Oregon.
 3

4 9. The foregoing Oregon Court of Appeals '*Orders*' would appear to
 5 render this Court's recent findings and dismissal of this lawsuit under the '*Rooker-*
 6 *Feldman*' doctrine moot, as the state court action is still pending and Plaintiff is in
 7 no way a "state court loser¹" given the appellate court's reversal of the lower court
 8 judgment wherever the forced sale of Mr. Gabriel's permanent Montana residence
 9 – and his subject forced eviction – is concerned. The unlawful forced sale of
 10 Plaintiff's permanent Montana residence and his subsequent eviction lies at the
 11 heart of the matter of Mr. Gabriel's instant complaint for injunctive and declaratory
 12 relief. Therefore, the issue is ripe for a reversed/remanded ruling by this Court,
 13 and/or for this Court to order a new trial per Plaintiff's instant motion. (Doc 30.)
 14

15 **LEGAL STANDING AND DIVERSITY JURISDICTION**

16 10. In Magistrate Judge John Johnston's '*Memorandum and Order*'
 17 dated December 4, 2024, he argues:

18 "Gabriel's Complaint has failed to allege diversity jurisdiction.
 19 Although Gabriel's Complaint alleges that he and Defendants Dorinda
 20 Sue Gray, Frederick Groenke and Kai Groenke reside in Montana, he
 21 has not alleged the citizenship of any party as required to invoke the
 22 Court's diversity jurisdiction. (Doc. 1) Furthermore, if the parties who
 23 allegedly reside in Montana are also citizens of Montana, there is not
 24 complete diversity between the parties because Gabriel and several
 25 defendants would be citizens of Montana. Thus, the Court lacks subject
 26

27 ¹ See '*Green-Jordan v. Taylor*', 2023 WL 4291849 (C.D. Cal. May 3, 2023) at *2-3.
 28

1 matter jurisdiction pursuant to 28 U.S.C. § 1332(a). Owen Equip. &
2 Erection Co., 437 U.S. at 373-74.” (Doc 26.)

3 Per the foregoing, Magistrate Judge Johnson’s ‘*Order*’ states, “Gabriel’s
4 Complaint has failed to allege diversity jurisdiction.” However, to the extent that
5 Mr. Gabriel requires leave of the Court to amend the ‘*Complaint*’, Mr. Gabriel has
6 already filed that motion into the instant case. (Doc 18 at 1-5.)

7
8 11. In Plaintiff’s ‘*Motion for Leave to Amend Complaint*’, dated and duly
9 filed on October 20, 2024, Mr. Gabriel wrote:

10
11 “Plaintiff Mr. Gabriel seeks this amended complaint to conform
12 to the statements made by Defendant DORINDA SUE GRAY,
13 INSURED TITLES, LLC, AND FLYING S TITLE AND ESCROW
14 OF MONTANTA, INC., (See ECF No. 13, ‘Defendants, Dorinda Sue
15 Gray, Insured Titles, LLC, and Flying S Title and Escrow of Montana,
16 Inc.’s Corporation’s Brief Supporting Motion to Dismiss’, page 2, §1,
17 ¶1, filed October 4, 2024): “... the parent corporation of Insured Titles,
18 LLC, is a Montana corporation called “Flying S Title and Escrow of
19 Montana, Inc. (“FSTE”).” Plaintiff Mr. Gabriel agrees with this
20 statement, and further notes the correct parent company of Insured
21 Titles, LLC and Flying S Title and Escrow of Montana, Inc. is Title
22 Financial Corporation located at 195 S Broadway in Blackfoot, ID.
23 83221. Therefore, the Defendant ‘TITLE INSURANCE
24 CORPORATION /DBA INSURED TITLES’ should be instead
25 identified by its correct name: ‘TITLE FINANCIAL CORPORATION
26 /DBA INSURED TITLES’.

27
28 2. Plaintiff Mr. Gabriel therefore requests leave of this Court to
29 amend the instant Complaint pursuant to Fed. R. Civ. P. 15 to make this
30 slight modification to the identified Defendant, and in order to conform
31 with Defendant’s instant brief in support of their October 4, 2024,
32 motion.” (Doc 18.)

12. The Defendant doing business as “Insured Titles” is an Idaho corporation, as alleged by Plaintiff Mr. Gabriel in the foregoing ‘*Motion for Leave to Amend Complaint*’ (Doc 18.) as well as in ‘*Plaintiff’s Response to Defendants’ Motions to Dismiss / Plaintiff’s Answer to Defendant’s Response Brief Opposing Motion for Leave to Amend Complaint*’. (Doc 21.)

13. Therefore, this Court is either in error by arguing Plaintiff has “failed to allege diversity jurisdiction”, or it is in error by concluding the “amendment of Gabriel’s Complaint would be futile”, given that Plaintiff’s ‘*Motion for Leave to File Amended Complaint*’ literally spells out that Plaintiff wishes to cure this technical oversight in the original ‘*Complaint*’. (Doc 18 at 1-5.)

COLOR OF LAW AND STATE ACTION

14. In Magistrate Judge John Johnston's '*Memorandum and Order*' dated December 4, 2024, he argues:

“Additionally, Gabriel’s Complaint fails to raise a federal question under 42 U.S. C. §1983. Under § 1983, a defendant may be liable for violating a plaintiff’s constitutional rights only if the defendant committed the alleged deprivation while acting under color of state law. *Rawson v. Recovery Innovations, Inc.*, 975 F.3d 742, 747 (9th Cir. 2020) (citing *Jensen v. Lane County*, 222 F.3d 570, 574 (9th Cir. 2000)).

The Ninth Circuit has identified four tests under which a private person may be deemed to be acting under color of state law: (1) public function; (2) joint action; (3) governmental compulsion or coercion; and (4) governmental nexus. *Sutton v. Providence St. Joseph Medical Center*, 192 F.3d 826, 835-36 (9th Cir. 1999). Under “governmental

1 coercion or compulsion,” the court considers “whether the coercive
 2 influence or ‘significant encouragement’ of the state effectively
 3 converts a private action into a government action.” Id. at 836.”
 4

(Doc 26.)

5 15. Contrary to the findings of Magistrate Judge Johnson, Mr. Gabriel’s
 6 instant Complaint seeks a Federal injunction against unlawful actions initiated by
 7 the Defendants which meet *all four* tests identified by the Ninth Circuit in ‘*Sutton*
 8 *v. Providence*’² (emphasis added.). As Mr. Gabriel’s ‘*Complaint*’ (Doc 1.) alleges,
 9 on March 2022, Jesse Mark Olsen (“Mr. Olsen”) sued Mr. Gabriel for dissolution
 10 of “unregistered domestic partnership” in Oregon, a state in which Mr. Gabriel has
 11 never been domiciled, and Defendant M/r/s. “Kai” Groenke has stated she intends
 12 to leverage an amended Oregon judgment – now subject to a higher Court indefinite
 13 stay on appeal – in Montana to hold Mr. Gabriel in contempt of court, explicitly for
 14 the purpose of jailing Mr. Gabriel in order to force his signature on the title
 15 documents relinquishing his possession of his own home and permanent residence.³
 16

17 16. The Oregon Court of Appeals is, to date, is the highest Court to rule
 18 on the central question of whether Mr. Gabriel’s actions to prevent his ouster from
 19 his own permanent residence are and were legally sound. Per Chief Judge Hon.
 20 Erin C. Lagesen, Defendant/Appellant Mr. Gabriel has acted fully within his rights
 21

22 ² *Sutton v. Providence St. Joseph Medical Center*, 192 F.3d 826, 835-36 (9th Cir. 1999)

23 ³ See ‘MOTION TO ENFORCE FOREIGN JUDGMENT AND PETITION FOR CONTEMPT,
 24 STATEMENT OF CHARGE, AND REQUEST FOR ATTORNEYS’ FEES’, Montana Eleventh Judicial
 25 District Court, Flathead County, Cause No. DR-2024-394 (E). (See **Exhibit 29**, attached.)

1 from the moment Mr. Gabriel first filed his ‘*Notice of Appeal*’ and ‘*Supersedeas*
2 *Undertaking(s)*’ in the underlying domestic dispute. That ‘*Notice of Appeal*’ was
3 filed on May 10, 2024, and the ‘*Supersedeas Undertaking(s)*’ were filed on July 1,
4 2024, and then perfected on October 18, 2024. (*See Exhibit 17, Exhibit 28,*
5 **Exhibit 45 and Exhibit 57**, attached here.)
6

7 17. Conversely, Defendants Mr. Groenke, M/r/s. Groenke, M/r/s.
8 DORINDA SUE GRAY (“M/r/s. Gray”) and INSURED TITLES (“FSTE”) have
9 been relying on the stayed lower court judgment, combined with their authorities
10 granted by the lower Montana courts, the Montana Bar Association, the Montana
11 Dept. of Labor’s realtor and State of Montana’s title licensing division, to
12 unlawfully harass, provoke and stalk Plaintiff Mr. Gabriel in his own home and
13 permanent residence. (*See Exhibit 1, Exhibit 26, and Exhibit 27*, attached).
14

15 18. And now per the highest Court to yet rule on the matter, the
16 defendants did not have the legal authority to perform the foregoing acts *in*
17 *retrospect*. (Emphasis added.) (*See Exhibit 17, Exhibit 28, Exhibit 45 and*
18 **Exhibit 57**, attached here.)
19

20 19. Underscoring the very real, immediate and life-threatening severity of
21 Mr. Groenke’s ongoing misinterpretations of the foreign (Oregon) Court’s orders
22 (whether through his counsel or acting on his own behalf): On Veterans’ Day,
23 November 11, 2024, Mr. Groenke dispatched armed private security agents – *with*
24

1 ***their guns drawn*** – to raid Mr. Gabriel’s home and permanent residence at dawn,
2 not knowing who if anyone might be inside, and without adequate confirmation to
3 those who could potentially be impacted at cost to their lives. (Emphasis added.)
4
5 Mr. Gabriel herein furnishes this Court video evidence attached in the form of a
6 compact disk and still-frame video captures, taken within Mr. Gabriel’s private
7 living quarters on that date (*See Exhibit 49*, enclosed and **Exhibit 50**, attached).

8
9 20. Defendant Frederick “Fritz” Groenke did not have legal authorization
10 to list the property at the time of its listing on or before July 23, 2024, nor at the
11 time of the subsequent temporary withdrawal and re-listing weeks later, and he was
12 advised as much by Mr. Gabriel’s Oregon attorney (Andrew Newsom, Partner –
13 Holtey Law Firm). Mr. Groenke listed it anyway, in active coordination with his
14 alleged biological daughter, Taylor “Kai” Groenke. (*See Exhibit 3*, attached here).

15
16 21. In the days that followed, Mr. Gabriel also witnessed the electronic
17 gate that Mr. Groenke forcibly broke by forcing his way through it, along with the
18 unauthorized listing of Mr. Gabriel’s property, accompanied by the misleading and
19 far-outdated photos from 2019 that Mr. Groenke illegally used in his listing – photos
20 that still belong to Cecil Waati, another local realtor. Later, Mr. Gabriel learned via
21 e-mail thread that Taylor “Kai” Groenke was directing and coordinating Mr.
22 Groenke’s unlawful entry and trespass of Mr. Gabriel’s property. (*See Exhibit 9*,
23 **Exhibit 11** and **Exhibit 12**, attached here).

1 22. According to M/r/s. Groenke, her client, JESSE MARK OLSEN ("Mr.
2 Olsen"), had previously hired Defendant Mr. Groenke, the alleged biological father
3 of Defendant Taylor "Kai" Groenke, to attempt to sell Mr. Gabriel's permanent
4 residence. At Mr. Groenke's request, Montana Regional MLS, LLC, then listed the
5 real property at 2000 Blacktail Road, Lakeside, MT 59922 for sale and the property
6 is now under contract, as of August 9, 2023. This was done without Mr. Gabriel's
7 consent, and with the lower court stay (Supersedeas Undertaking) still in place. (*See*
8 **Exhibit 26 and Exhibit 3**, attached).
9

10 23. Compounding the unlawful listing of Mr. Gabriel's property and
11 permanent residence (2000 Blacktail Road, Lakeside, MT 59922) Frederick "Fritz"
12 Groenke, unlawfully impersonated another realtor (Michelle Thomson),
13 deliberately using her signature and then substituting her 'Reply' address
14 ('michellethomson.bigfork@gmail.com') with his own ('mtreg@cyberport.net').
15 Mr. Groenke then attempted to walk back the attempted fraudulent conveyance,
16 actions described by Kaaren Winkler, MPA, RCE, CAE and Chief Executive
17 Officer of the Montana Association of REALTORS as "serious", "troubling" and
18 "severe". (Emphasis added.) (*See Exhibit 1 and Exhibit 19*, attached).
19

20 24. In other words, on August 8, 2024, at approximately 4pm MST,
21 Defendant Fritz Groenke, in active coordination with Defendant Taylor "Kai"
22 Groenke, impersonated another realtor, Michelle Thomson, in the process of
23

1 committing numerous other crimes, including illegal trespass (under Montana Penal
2 Code 45-6-203), vandalism, breaking and entering and harassment, among other
3 acts. These actions also constitute rank violations of Article 1 & Article 3 of the
4 National Association of Realtors (NAR) Code of Ethics: Unauthorized Access to
5 Property, SOP 1-16 and 3-9. (*See Exhibit 1 and Exhibit 18*, attached).

6
7 25. Michael Ponton, CEO of the Montana Regional MLS, was made aware
8 of the correspondence from Mr. Gabriel's Oregon attorney, Andrew Newsom,
9 which stated that at the time of the listing in question an active Court stay
10 (supersedeas undertaking) was in place on a judgment that Fritz Groenke purported
11 to rely on to justify the illegal listing, at Defendant M/r/s. Groenke's prodding. That
12 listing has never been taken down, though a court stay was in place. (*See Exhibit*
13
14 **3**, attached).

15
16 26. The full forwarded e-mail exchange implicating Mr. Groenke in the
17 foregoing is attached as Exhibit 1. (*See Exhibit 1*, attached).

18
19 27. Compounding matters yet further: Previously, on Friday, July 19,
20 2024, Defendant M/r/s. Groenke filed for a Temporary Petition for Protective Order
21 with the Justice Court of the State of Montana (Flathead) before Hon. Paul Sullivan,
22 Justice of the Peace. In this Protective Order, Taylor "Kai" Groenke sought a ruling
23 that would require Mr. Gabriel "**shall stay at least 2,500 feet from ... 2000**
24
25 **Blacktail Road, Lakeside, MT 59922**" – which happens to be Mr. Gabriel's
26
27
28

1 permanent residence and home, and which he owns, has title to, and lives in. (See
2 **Exhibit 15 and Exhibit 4, page 2**, attached).

3
4 28. For further context, M/r/s. “Kai” Groenke’s husband is David C.
5 Dowell, who happened to work for the Flathead County Probation and Parole office,
6 which in turn works closely with Hon. Paul Sullivan’s Justice Court. In other
7 words, M/r/s. Groenke is trying to use her husband’s connections adjacent to Hon.
8 Paul Sullivan, Justice of the Peace, and the Flathead County Justice Court, to evict
9 Defendant/Appellant Mr. Gabriel from his own home ostensibly so that her father,
10 Frederick “Fritz” Groenke (a realtor) can sell it out from underneath Mr. Gabriel
11 for some undisclosed commission. M/r/s. Groenke’s exact words, from her recent
12 filing in Flathead County Case No. DR-2024-394 (E): **“Ryan should be**
13 **incarcerated until such time as the sale of the property closes. Furthermore,**
14 **incarceration will ensure Ryan remains available in Flathead County to sign**
15 **any documents necessary to close the sale of the property. Finally, Ryan will**
16 **be more easily served with process and documents as a resident of the Flathead**
17 **County Jail until the transaction can be completely closed.”** (Emphasis added.)
18
19 (See Montana Eleventh Judicial District Court, Flathead County, Cause No. DR-
20 2024-394 (E), ‘*Motion to Enforce Foreign Judgment Petition for Contempt*’, page
21 11 and **Exhibit 29**, attached).

29. In addition, Defendant M/r/s. Gray, acting on behalf of Idaho-based Defendant Insured Title, has been actively coordinating with Defendants Mr. and M/r/s. Groenke on how Plaintiff Mr. Gabriel might be forcibly and unlawfully removed from title and possession of his own permanent residence located at 2000 Blacktail Rd. in Lakeside, MT 59922. (***See Exhibit 27 and Exhibit 29***, attached).

30. Finally, the Defendants were able to secure an ‘Order’ from retiring Judge Robert Allison (a state actor) for attorney’s fees and dismissing Mr. Gabriel’s lawsuit for tortious interference, effectively encouraging the Defendants to proceed with their unlawful actions. (Doc 31, Doc 32.)

31. Hence, Plaintiff Mr. Gabriel filed the instant Complaint seeking a Federal Court to intervene via injunctive and/or declaratory relief – not from the state court judgment, but rather from Defendants' unlawful misinterpretation of that judgment as retroactively affirmed by the Oregon Court of Appeals. (Doc 1.) (*See Exhibit 52 and Exhibit 55.*)

THE ROOKER-FELDMAN DOCTRINE

32. In Magistrate Judge John Johnston's *'Memorandum and Order'* dated December 4, 2024, he argues:

“The Green-Jordan court then determined that the plaintiffs’ claims related to the request to overturn the state court’s partition order must be dismissed without leave to amend as barred by the Rooker-Feldman doctrine. The same reasoning is determinative of Gabriel’s claims here. By seeking to enjoin the Defendants from acting in

1 accordance with the Amended General Judgment, Gabriel is requesting
 2 Case 9:24-cv-00118-JTJ Document 26 Filed 12/04/24 Page 7 of 9 8 this
 3 Court provide him relief from the Amended General Judgment by
 4 determining that the Amended General Judgment is unconstitutional
 5 and, therefore, unenforceable. The Rooker-Feldman doctrine precludes
 6 the Court from exercising jurisdiction for such a de facto appeal of the
 7 Amended General Judgment.”

8 (Doc 26.)

9 33. However, as established in the foregoing paragraphs, the Court of
 10 Appeals of the State of Oregon has confirmed that Plaintiff Mr. Gabriel’s
 11 interpretation of the law is correct, and that the Defendants’ interpretation is
 12 incorrect. (See **Exhibit 52 and Exhibit 55.**)

13 34. From there, the Defendants’ arguments collapse in near totality, as
 14 does Magistrate Judge Johnntson’s invocation of the ‘*Rooker-Feldman*’ doctrine.
 15 The Oregon Court (of Appeals) has ruled and has agreed with Mr. Gabriel’s
 16 interpretation of which party is on the wrong side of the law, as it pertains to the
 17 instant matter – which itself is underwritten by the underlying Oregon domestic
 18 relations and partition claims (Cause Nos. A184337 and A184374, Or. Court of
 19 Appeals)⁴. Taken together, this means that Plaintiff Mr. Gabriel is substantially
 20 prevailing in both Oregon appellate matters (A184337 and A184374) as well as in
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 23
 24

25 ⁴ See ‘*Gabriel v. Olsen*’, Oregon Circuit Court, Multnomah County, Cause No. 22CV10399, now pending
 26 appeal (Oregon Court of Appeals) as Cause No. A184374. See also ‘*Gabriel v. Olsen*’, Flathead County
 27 District Court, Mont., Cause No. DV-22-605; *Olsen v. Gabriel*’, Multnomah County District Court, Ore.,
 Cause No. 22DR04942, now pending appeal (Oregon Court of Appeals) as Cause No. A184337.

1 Flathead County District Court Cause No. DR-24-394⁵, in which Mr. Gabriel is the
 2 defendant. (*See Exhibit 61*, attached here).

3
 4 35. Therefore, Plaintiff is in no way a “state-court loser” challenging a
 5 state-court judgment; the Oregon Court of Appeals has substantially reversed the
 6 lower-court judgment in Mr. Gabriel’s favor retroactively and in totality, turning
 7 Plaintiff Mr. Gabriel into the state-court “victor” as it pertains to the present Federal
 8 injunctive relief matter from July 1, 2024, to the current date. (*See Exhibit 45*,
 9
 10 **Exhibit 52 and Exhibit 55.**)

11
 12 **ORDER RE: VEXATIOUS LITIGANT**

13 36. On January 3, 2025, Defendant Kai Groenke provided “Notice to the
 14 Court of the Order dated December 31, 2024, entered against Plaintiff by the
 15 Montana Eleventh Judicial District Court, Hon. Robert B. Allison, Cause Number
 16 DV-15-2024-0001197-TO. The Order declares Plaintiff a vexatious litigant,
 17 orders that Plaintiff’s future filings in that Court are subject to prefiling review,
 18 requires Plaintiff to attach a copy of the Order to any future lawsuit or complaint
 19 he files, allows for a notice of the Order to be provided in any pending matter, and
 20 awards Defendant Kai Groenke her attorney’s fees.” (Doc 31.)

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 5 ‘Olsen v. Gabriel’; Flathead County District Court, Cause No. DR-24-394.

1 37. This was preceded by Defendant M/r/s. Groenke's own '*Proposed*
 2 *Opinion and Order*' which she filed as a postmortem pseudo-brief in the lower
 3 district court matter⁶, and perhaps as an attempt to compensate for the recent
 4 rulings of the Oregon Court of Appeals, which – taken together – would seem to
 5 transform M/r/s. Groenke into the sole vexatious litigant both retroactively and in
 6 totality. (*See Exhibit 52 and Exhibit 55*, attached here.)

9 38. Plaintiff Mr. Gabriel herein brings to this Court's attention the sheer
 10 scale of the unlawful overreach committed by the various Defendants, as partially
 11 described in previous pleadings in the instant matter, and for the purpose of
 12 establishing with total clarity why Plaintiff seeks injunctive and declaratory relief
 13 from this Federal Court. Defendants have sought:

16 a) **to forcibly conscript** Mr. Gabriel into a *de facto* common law
 17 marriage with Defendant M/r/s. Groenke's now-abandoned client, Mr. Olsen, in
 18 the state of Montana – where her former client has never been domiciled – and by
 19 leveraging an indefinitely stayed lower court judgment in Oregon, which is not a
 20 common law marriage state, and where Mr. Gabriel has never been domiciled⁷.

22 b) **to incarcerate Mr. Gabriel in Flathead County Jail** for the explicit
 23 purpose of forcing him to relinquish possession and title to his own permanent

26 ⁶ See Montana Eleventh Judicial District Court, Cause Number DV-15-2024-0001197.

27 ⁷ See '*Olsen v. Gabriel*'; Flathead County District Court, Cause No. DR-24-394 (Hon. Danni Coffman presiding)

1 residence located at 2000 Blacktail Rd. in Lakeside, MT – now declared an
 2 unlawful act per the Oregon Court of Appeals (*See Exhibit 29, Exhibit 52 and*
 3 **Exhibit 55**, attached here.);

5 **c) to enlist a district Court to declare Mr. Gabriel a ‘vexatious**
 6 **litigant’** for Plaintiff’s attempt to secure due process and privacy protections
 7 arising under the 14th Amendment to the US Constitution using the Federal courts,
 8 in which Mr. Gabriel has sought only declaratory relief and no specified money
 9 damages (Doc 1, Doc 31, Doc 32.)

10 **d) to forcibly evict Mr. Gabriel from his home and permanent residence⁸**
 11 – now declared an unlawful act, per Chief Judge Lageson of the Oregon Court of
 12 Appeals (*See Exhibit 29, Exhibit 52 and Exhibit 55*, attached here.);;

13 **e) to charge Mr. Gabriel for the balance of legal fees incurred in the**
 14 process of attempting to forcibly and unlawfully evict Mr. Gabriel from his home
 15 and permanent residence – now declared unlawful by the Oregon Court of Appeals
 16 (Doc 31) (*See Exhibit 29, Exhibit 52 and Exhibit 55*, attached here.);.

17 39. In the process of seeking an order declaring Plaintiff a vexatious
 18 litigant, Defendant Taylor “Kai” Groenke’s legal arguments are technically
 19 proficient but substantively preposterous. For example, in M/r/s. Groenke’s
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 27 ⁸ See ‘*Olsen v. Gabriel*’; Flathead County District Court, Cause No. DR-24-394 (Hon. Danni Coffman
 presiding)

1 pleadings, much is made of the precedent established in *Safir v. United States*
 2 *Lines, Inc.*, 792 F.2d 19, 23-24 (2d Cir. 1986):
 3

4 “That the district court possessed the authority to enjoin Safir
 5 from further vexatious litigation is beyond peradventure. 28 U.S.C. §
1651(a); Abdullah v. Gatto, 773 F.2d 487, 488 (2d Cir. 1985) (per
 6 curiam); *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984); *In*
 7 *re Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir. 1982) (per
 8 curiam), cert. denied, 459 U.S. 1206, 103 S.Ct. 1195, 75 L.Ed.2d 439
 9 (1983); *Ward v. Pennsylvania New York Central Transportation*
 10 *Co.*, 456 F.2d 1046, 1048 (2d Cir. 1972). “A district court not only may
 11 but should protect its ability to carry out its constitutional functions
 12 against the threat of onerous, multiplicitous, and baseless
 13 litigation.” *Abdullah*, 773 F.2d at 488 (citing *Martin-Trigona*, 737 F.2d
at 1262):

14 “As our prior cases have indicated, the district court, in
 15 determining whether or not to restrict a litigant's future access to the
 16 courts, should consider the following factors:
 17

- 18 (1) the litigant's history of litigation and in particular whether it
 19 entailed vexatious, harassing or duplicative lawsuits;
- 20 (2) the litigant's motive in pursuing the litigation, (e.g., does the
 21 litigant have an objective good faith expectation of prevailing?);
- 22 (3) whether the litigant is represented by counsel;
- 23 (4) whether the litigant has caused needless expense to other
 24 parties or has posed an unnecessary burden on the courts and their
 25 personnel; and
- 26 (5) whether other sanctions would be adequate to protect the
 27 courts and other parties. Ultimately, the question the court must answer
 28 is whether a litigant who has a history of vexatious litigation is likely
 29 to continue to abuse the judicial process and harass other parties.”

30 1) **On the first factor:** Mr. Gabriel has no history of litigation in
 31 Oregon, Montana, or in Federal Courts prior to his defensive maneuvers in the
 32 underlying domestic relations dispute in Oregon. Moreover, the duplicative nature
 33

1 of the various pleadings in the intersecting lawsuits – which stem from the
2 underlying Oregon domestic relations dispute now under appeal – cuts both ways
3 (for and against all parties). Contrary to the sensational and obfuscatory claims of
4 Defendant M/r/s. Groenke, there are but three core lawsuits that Plaintiff Mr.
5 Gabriel has filed that have involved any substantial expense in the form of
6 attorneys' fees:
7

8 a) ***For partition and sale of two properties*** – one in Oregon and one in
9 Montana – that Mr. Gabriel and Mr. Olsen jointly own. From the outset, Mr.
10 Gabriel has maintained his position that because the properties can be easily
11 partitioned, the parties should take this milder approach vs. the “whole-of-life”
12 litigation approach preferred by Defendant M/r/s. Groenke, a family law specialist,
13 and her client Mr. Olsen – particularly since the parties aren’t married, Oregon is
14 not a common law marriage state, and Mr. Olsen has never been domiciled in
15 Montana.
16

17 **Cases:**

- 18
- | |
|--|
| 1. ‘ <i>Gabriel v. Olsen</i> ’, Oregon Circuit Court, Multnomah County, Cause No.
22CV10399, now pending appeal (Oregon Court of Appeals) as Cause No. A184374. |
| 2. ‘ <i>Gabriel v. Olsen</i> ’, Flathead County District Court, Mont., Cause No. DV-22-605. |
- 19

20 b) ***For injunctive relief under the due process and privacy clauses*** of
21 the Fourteenth Amendment to the US Constitution, which confer all US citizen
22

adults the “right not to marry” when paired with the SCOTUS ‘*Obergefell*’⁹ ruling, which itself substantively gives US citizen adults the inverse “right to marry”. Mr. Gabriel has not sought monetary damages in any of these claims, which are each corrective iterations of the first attempt for injunctive relief, and the main purpose is to derail Mr. Olsen’s draconian domestic relations approach in favor of a straightforward, far simpler, and less costly partition of property approach.

Cases:

- 1. ‘*Gabriel v. Olsen*’, US District Court, Montana; Cause No. CV-23-142-M-DLC-KLD.
- 2. ‘*Gabriel v. Kotek, et. al*’, US District Court, Or., Cause No. 3:24-cv-754-JR.
- 3. ‘*Gabriel v. Gray, et. al*’, US District Court, Mont.; Cause No. 9-24-CV-118-JTJ.

c) ***For unlawful tortious interference with a contract*** and unlawful listing of his permanent Montana residence, which was misrepresented to prospective buyers per the Montana Consumer Protection Act (Doc 1), the instant matter for which Mr. Gabriel has support from the Oregon Court of Appeals (Doc 52). As thoroughly documented in Mr. Gabriel’s pleadings in the instant matter, Chief Judge Hon. Lageson and the higher Court of Appeals both concur with Mr. Gabriel’s unflinching position that the Defendants were not entitled to seek his premature ouster from his own residence (*See Exhibit 52 and Exhibit 55*, attached here.)

Cases:

- 1. ‘*Gabriel v. Nelson*’, Flathead County District Court, Cause No. DV-23-786.
- 2. ‘*Gabriel v. Groenke, et. al*’, Flathead County Dist. Ct, Mont., Cause No. DV-22-1197.

⁹ ‘*Obergefell v. Hodges*’, 576 U.S., 135 S.Ct. 2584, 192 L.Ed.2d 609 (2015).

1 Conversely, Plaintiff Mr. Gabriel has been targeted by Defendant M/r/s.
 2 Groenke, her client Mr. Olsen, and Defendant Frederick “Fritz” Groenke in seven
 3 (7) separate lawsuits brought under largely separate pretenses:

4 a) ***For dissolution of “unregistered domestic partnership” in Oregon***
 5 (Mr. Olsen) – now pending appeal, with the most recent rulings favoring Mr.
 6 Gabriel.

7 **Cases:** 1. ‘*Olsen v. Gabriel*’, Multnomah County District Court, Ore., Cause No. 22DR04942,
 8 now pending appeal (Oregon Court of Appeals) as Cause No. A184337.
 9 2. ‘*Olsen v. Gabriel*’; Flathead County District Court, Cause No. DR-24-394.

10 b) ***For an Order of Protection in Oregon (Mr. Olsen)*** – for which Mr.
 11 Gabriel prevailed in totality and Mr. Olsen’s sought-after protective order was
 12 flatly denied and dismissed by Hon. Judge Francis H. Troy on March 13, 2024.
 13 (See **Exhibit 10 and Exhibit 13**, attached here.)

14 **Case:** 3. ‘*Olsen v. Gabriel*’, Multnomah County District Court, Ore., Cause No. 24PO00918.

15 c) ***For an Order of Protection in Montana*** (Defendant M/r/s. Groenke)
 16 – for which Mr. Gabriel is now appealing with the Montana Supreme Court.

17 **Cases:** 4. ‘*Groenke v. Gabriel*’, Justice Court, Flathead County, Mont.; Cause No. CV-24-1010.
 18 5. ‘*Groenke v. Gabriel*’, Flathead County District Court, Cause No. DR-24-510 (B).
 19 6. ‘*Groenke v. Gabriel*’, Montana Supreme Court, Cause No. DA-24-0646.

d) ***For an Order of Protection in Montana*** (Defendant Mr. Groenke) – for which Mr. Gabriel is now appealing with the Montana Supreme Court.

Cases: 7. '*Groenke v. Gabriel*', Justice Court, Flathead County, Mont.; Cause No. CV-24-1140.

7. '*Groenke v. Gabriel*', Justice Court, Flathead County, Mont.; Cause No. CV-24-1
 8. '*Groenke v. Gabriel*', Flathead County District Court, Cause No. DR-24-527 (A).
 9. '*Groenke v. Gabriel*', Montana Supreme Court, Cause No. DA-24-0665.

e) ***For enforcement of a Foreign Court Judgment*** in Montana (Mr. Olsen), using counsel in the form of Defendant M/r/s. Groenke, for which M/r/s. Groenke has effectively now lost retroactively due to the recent rulings of the Oregon Court of Appeals, and for which her client Mr. Olsen has requested her withdrawal.

Case: 10. ‘*Olsen v. Gabriel*’; Flathead County District Court, Cause No. DR-24-394.

f) ***A Counterclaim in the instant case*** seeking, among other things, attorney's fees incurred by M/r/s. Groenke for causes that she appears to be losing in near-totality given the recent rulings of the Oregon Court of Appeals, and to declare Mr. Gabriel a vexatious litigant – despite Plaintiff Mr. Gabriel's regular ability to win favorable rulings even while representing himself *pro se*.

Case: 11. '*Gabriel v. Groenke, et. al.*'; Flathead County District Court, Cause No. DR-24-1197.

g) ***A criminal charge for intimidation*** in which M/r/s. Groenke has leveraged her foregoing Order of Protection in Montana into a “stalking and intimidation” criminal case, for which Mr. Gabriel is represented by counsel (Mr.

1 Nick Aemisegger), and for which Mr. Aemisegger believes the charges will be
2 dropped on a Motion to Dismiss, given the Oregon Court of Appeals recent rulings
3 favorable to Mr. Gabriel – which seem to invert the “aggressor-victim”
4 relationship, turning M/r/s. Groenke into the aggressor and stalker, and turning Mr.
5 Gabriel into her stalking and intimidation victim.
6
7

8 **Case:** 12. ‘*Montana v. Gabriel*’; Flathead County District Court, Cause No. DC-24-259 (C).
9

10 The above factual pattern of lawsuits either filed by Plaintiff Mr. Gabriel or
11 targeting Mr. Gabriel therefore seems to implicate M/r/s. Groenke – not Plaintiff
12 Mr. Gabriel – in the first of the five factors for determining whether a litigant is
13 vexatious per the standards established in *Safir v. United States Lines, Inc.*
14

15 2) **On the second factor:** Mr. Gabriel’s oft-repeated, stated motivation
16 is to be left alone in peace in his permanent Montana residence until the Oregon
17 appellate process can be concluded, or alternately until a Federal court agrees that
18 the SCOTUS ‘*Obergefell*’ decision – which granted all consenting US adults a
19 “right to marry” – also confers those same consenting adults a rather modest and
20 entirely reasonable “right not to marry”. Mr. Gabriel has a reasonable expectation
21 of prevailing, the Oregon Court of Appeals has confirmed as much, and Justice
22
23

1 Kennedy's majority SCOTUS opinion in '*Obergefell*' (2015) would appear by
 2 almost any measure to concur¹⁰.
 3

4 3) **On the third factor:** Mr. Gabriel has been represented by counsel
 5 whenever appropriate and as needed. Moreover, Mr. Gabriel's legal conclusions
 6 derived as a *pro se* litigant have been largely supported by legal counsel – *post*
 7 *portem* and retroactively – and thoroughly redeemed – *post mortem* and
 8 retroactively – by a higher court Chief Judge. (*See Exhibit 52 and Exhibit 55,*
 9 attached here.)
 10

11 4) **On the fourth factor:** Given the first three factors, it is therefore
 12 Defendant M/r/s. Groenke who is revealed to be the vexatious litigant, engaged in
 13 rank malpractice, and creating unnecessary burdens on this Court and Plaintiff Mr.
 14
 15 Gabriel;

16 5) **On the fifth factor:** Mr. Gabriel has no history of litigation in
 17 Oregon, Montana, or in Federal Courts prior to his purely defensive maneuvers in
 18 the underlying domestic relations dispute in Oregon. Conversely, this Court should
 19 consider referring M/r/s. Groenke for sanctions and/or disbarment to the Montana
 20 State Bar association, given the uncanny resemblance between M/r/s. Groenke's
 21 antics and those of now-disgraced, power-starved officers of the court such as
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 23

24
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 26
 27 ¹⁰ '*Obergefell v. Hodges*', 576 U.S., 135 S.Ct. 2584, 192 L.Ed.2d 609 (2015).
 28

1 North Carolina prosecutor Mike Nifong¹¹, Fulton County District Attorney Fanni
 2 Willis¹² or private attorney Michael Avenatti¹³.
 3

4 **SUMMARY**

5 40. The Court of Appeals of the State of Oregon has confirmed that
 6 Plaintiff Mr. Gabriel's interpretation of the law is correct, and that the Defendants'
 7 interpretation is incorrect. (See **Exhibit 52** and **Exhibit 55**, attached here.)
 8

9 41. From there, the Defendants' arguments collapse in near totality, as
 10 does Magistrate Judge Johnstson's invocation of the '*Rooker-Feldman*' doctrine.
 11 The Oregon Court (of Appeals) has ruled and has agreed with Mr. Gabriel's
 12 interpretation of which party is on the wrong side of the law, as it pertains to the
 13 instant matter – which itself is underwritten by the underlying Oregon domestic
 14 relations and partition claims (Cause Nos. A184337 and A184374, Or. Court of
 15 Appeals)¹⁴. Taken together, this means that Plaintiff Mr. Gabriel is substantially
 16 prevailing in both Oregon appellate matters (A184337 and A184374) as well as in
 17
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 23 ¹¹ See '*Findings of Fact, Conclusions of Law and Order of Discipline*' at 1, 24, '*N.C. State Bar v. Nifong*',
 24 No. 06 DHC 35 (Disciplinary Hearing Comm'n of the N.C. State Bar July 10, 2007)

25 ¹² See 'Cause No. A24A1595, '*ROMAN et. al v. THE STATE*' (Ga. Ct. App. Dec. 19, 2024).

26 ¹³ See '*Daniels v. Trump*', US District Court, Southern District of New York; Cause No. 2:18-cv-06893-JLS-FFM.

27 ¹⁴ See '*Gabriel v. Olsen*', Oregon Circuit Court, Multnomah County, Cause No. 22CV10399, now pending
 28 appeal (Oregon Court of Appeals) as Cause No. A184374. See also '*Gabriel v. Olsen*', Flathead County
 District Court, Mont., Cause No. DV-22-605; *Olsen v. Gabriel*', Multnomah County District Court, Ore.,
 Cause No. 22DR04942, now pending appeal (Oregon Court of Appeals) as Cause No. A184337.

Flathead County District Court Cause No. DR-24-394¹⁵, in which Mr. Gabriel is the defendant. (*See Exhibit 61*, attached here).

42. Therefore, Plaintiff is in no way a “state-court loser” challenging a state-court judgment; the Oregon Court of Appeals has substantially reversed the lower-court judgment in Mr. Gabriel’s favor retroactively and in totality, turning Plaintiff Mr. Gabriel into the state-court “victor” as it pertains to the present Federal injunctive relief matter from July 1, 2024, to the present date. (*See Exhibit 17, Exhibit 28, Exhibit 45, Exhibit 52 and Exhibit 55*, attached here.)

43. The Supreme Court has held that to have Article III standing under the Constitution, a party must show it has suffered an “injury in fact,” that there is a “causal connection between the injury” and the defendant’s complained-of conduct, and that it is likely “that the injury will be redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*’, 504 U.S. 555, 561 (1992), 504 U.S. at 560-61. Importantly, the requirements for Article III standing “are not mere pleading requirements but rather an indispensable part of the plaintiff’s case, [so] each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation.” *Lujan*’, 504 U.S. at 561

¹⁵ ‘*Olsen v. Gabriel*’; Flathead County District Court, Cause No. DR-24-394.

(citations omitted). Indeed, to demonstrate an “injury in fact,” a plaintiff must establish an invasion of a legally protected interest which is: (a) concrete and particularized . . . and (b) actual or imminent, and not merely “conjectural” or “hypothetical.” *Id.* at 560 (citations omitted).

44. Thus, as articulated in the foregoing ‘*Affidavit and Brief*’, Plaintiff Mr. Gabriel has indeed alleged an injury in fact that has been caused by the Defendants, and this is supported by Mr. Gabriel’s original ‘*Complaint*’ and subsequent pleadings into the matter. (Doc 1 – Doc 30.)

CONCLUSION

WHEREFOR Plaintiff RYAN DEAN GABRIEL (“Mr. Gabriel”) herein respectfully objects to Magistrate Judge John Johnson’s ‘*Memorandum and Order*’ dated December 4, 2024 pursuant to Fed. R. Civ. P. 46 (“Rule 46”) and Fed. R. Civ. P. 59 (“Rule 59”) (B), in order to preserve the issues described herein for review.

WHEREIN Plaintiff’s objection to the Magistrate Judge’s ‘*Memorandum and Order*’ and filing thereof is timely. Consequently, Plaintiff is entitled to *de novo* review of those findings and recommendations to which he has specifically objected. (*See* 28 U.S.C. § 636 (b)(1)(C); ‘*United States v. Reyna-Tapia*’, 328 F.3d 1114, 1121 (9th Cir. 2003). Consequently, this Court should review the Magistrate’s findings and recommendations for error. (*See* ‘*McDonnell Douglas Corp. v. Commodore Bus. Machs., Inc.*’, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error

1 exists if the Court is left with a “definite and firm conviction that a mistake has been
2 committed.” ‘*United States v. Syrax*’, 235 F. 3d 422, 427 (9th Cir. 2000).

3
4 DATED this 5th Day of January, 2025.

5
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7



8 Plaintiff, Pro Se (signature)

9
10 Ryan D. Gabriel
11 2000 Blacktail Rd. #1140
12 Lakeside, MT 59922
13 Phone #: (403) 606-5859 m.
14

15 ***

16
17 **CERTIFICATE OF SERVICE**
18

19 I hereby certify that true and correct copies of the foregoing and Exhibits
20 were served upon the opposing parties on this 5th Day of January, 2025, by the
21 method and at the address as indicated below:
22

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X by e-mailing full, true, and correct copies thereof to the attorney(s) at the physical e-mailing addresses shown above.

DATED this 5th day of January, 2025.

R. M. S.

Ryan D. Gabriel
Respondent/Plaintiff, *pro se*

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4 ***
5

6
7 **CERTIFICATE OF COMPLIANCE**
8

9
10 I hereby certify that the foregoing brief is proportionally spaced typeface of
11
12 14 points and does not exceed 10,000 words. It is 6375 words, to be exact.
13

14 DATED this 5th Day of January, 2024.
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